mpt IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7722 of 2006

Ramesh Babasaheb Karande & ors. .. Petitioners

versus

Satish N. Majati .. Respondents

...

Mr.Anilkumar Patil for the petitioner.

CORAM : D.G. KARNIK, J

DATED : 2nd November 2007

P.C.:

1. Heard learned counsel for the petitioner.

2. The trial court as well as the lower appellate court have concurrently held that the respondent is in possession of the suit property and have granted injunction restraining the petitioner from disturbing the possession of the respondent. The said finding of fact is clearly established by the evidence on record. In the circumstances, no interference in exercise of a writ jurisdiction is called for and the Writ Petition deserves to be rejected summarily.

3. According to the respondent, respondent is a mortgagee in possession of the suit property. The mortgage deeds are registered and they recite respondent is in possession of the property. Respondent apprehends that he would be illegally dispossessed without due process of law and without redeeming his mortgage. In the circumstances, he is entitled to an injunction. It is however clarified that the order of injunction would not prevent the petitioner from filing a suit for redemption of the property if they are entitled to it. With this observation, Writ Petition is rejected.

(D.G. KARNIK, J)